



# UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,940	09/24/2001	Stephen George Edward Barker	GJE-75	4604

23557 7590 04/05/2005

SALIWANCHIK LLOYD & SALIWANCHIK  
A PROFESSIONAL ASSOCIATION  
PO BOX 142950  
GAINESVILLE, FL 32614-2950

EXAMINER

MATHEW, FENN C

ART UNIT PAPER NUMBER

3764

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b> 09/889,940	<b>Applicant(s)</b> BARKER, STEPHEN GEORGE EDWARD	
	<b>Examiner</b> Fenn C Mathew	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-26 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/17/2005 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11-13, 21-23, and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Baxter (U.S. 4,178,924). As broadly claimed by the Applicant, Baxter discloses a device comprising an enclosure (20) comprising a plastic material, wherein the enclosure has a first closeable end, and an enclosed end opposite the first end, the device further comprising fastening means (40) closing the opening around a portion of the leg of a user, the device further comprising a fluid absorbent material (33) located at the closed end opposite the first end. Referring to claims 12-13, Baxter further teaches a multi-layer plastic construction for the enclosure that is gas impermeable. With

references to claim 21, Baxter discloses the enclosure comprising a layer that is water vapor permeable. Referring to claim 22, Baxter discloses the enclosure in the shape of a boot. With respect to claim 23, Baxter discloses the enclosure comprising a non-slip sole. With respect to claims 25-26, Baxter discloses the enclosure comprising a pliable partially transparent material (polyethylene).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter alone. With regards to claims 31-33, Baxter teaches the structural limitations set forth in the method claims as described above. Although not specifically noted, Baxter is a cast protector implying a broken bone. In the case of compound fractures causing the bone to pierce the skin, and causing a wound, it would be obvious to perform the claimed method steps as broadly claimed, including the steps of inserting the wounded leg into the closeable opening of the device, placing the wounded leg in the enclosure so that the wound is contained within the enclosure, and securely closing the enclosure using fastening means.

6. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter in view of Liman (U.S. 3,741,203). Baxter discloses the claimed invention above

Art Unit: 3764

with the exception of a means for venting gases. Liman teaches an analogous device and teaches the desirability of a valve and active filter in column 7, lines 55-65.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to provide Baxter with a means for venting gases as taught by Liman in order to allow selective amounts of gas in the enclosure or prevent excessive gas buildup.

7. Claims 14 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter in view of Shuler (U.S. 2,690,415). Baxter teaches the claimed invention except for an odor-absorbing layer. Shuler teaches an odor absorbent layer that can be used in bandages, wraps, or other enclosures which are advantageous for odiferous environments (col. 1, lines 1-10). It would have been obvious to one of ordinary skill in the art at the time of invention to provide Baxter with an odor-absorbing layer as taught by Shuler in order to alleviate bad odors.

8. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter in view of Shuler as applied to claim 14 above, and further in view of Liman. Please refer to paragraph 6 above for discussion of Liman.

9. Claim 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter in view of Augustine (U.S. 5,947,914). Baxter teaches a device capable of being used with burn victims. Baxter fails to teach a burstable sachet within the enclosure. Augustine teaches a wound covering including cellular structure forming a reservoir for storage and release of medicaments. It would have been obvious to one of ordinary skill in the art at the time of invention to provide the device of Baxter with a reservoir of

medicament as taught by Augustine in order to administer medicament to a wound while being protected by the enclosure.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 11-26 and 31-34 have been considered but are moot in view of the new ground(s) of rejection. Examiner points out that claims have been read in their broadest reasonable interpretation.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/889,940

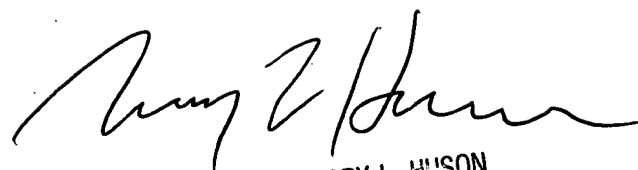
Page 6

Art Unit: 3764

*fcm*

fcm

April 4, 2005



GREGORY L. HUSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700